

1 AMENDMENT TO HOUSE BILL 220

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 220 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Affordable Housing Planning and Appeal Act.

6 Section 5. Findings. The legislature finds and declares  
7 that:

8 (1) there exists a shortage of affordable,  
9 accessible, safe, and sanitary housing for low-income and  
10 moderate-income households in the State;

11 (2) it is imperative that action be taken to assure  
12 the availability of low-income and moderate-income  
13 housing; and

14 (3) local governments in the State that do not have  
15 sufficient affordable housing are encouraged to assist in  
16 providing low-income and moderate-income housing  
17 opportunities to assure the health, safety, and welfare  
18 of all citizens of the State.

19 Section 10. Purpose. The purpose of this Act is to  
20 encourage counties and municipalities to incorporate  
21 affordable housing within their housing stock sufficient to

1 meet the needs of their county or community. Further,  
2 builders who construct affordable housing developments who  
3 believe that they have been unfairly treated due to the fact  
4 that the development contains affordable housing stock may  
5 seek relief from local ordinances and regulations that may  
6 inhibit the construction of affordable housing needed to  
7 serve low-income and moderate-income households in this  
8 State.

9 Section 15. Definitions. As used in this Act:

10 "Affordable housing" means housing that has a sales price  
11 or rental amount that is within the means of a household that  
12 may occupy moderate-income, low-income, or very low-income  
13 housing. In the case of dwelling units for sale, housing that  
14 is affordable means housing in which mortgage, amortization,  
15 taxes, insurance, and condominium or association fees, if  
16 any, constitute no more than 30% of the gross annual  
17 household income for a household of the size that may occupy  
18 the unit. In the case of dwelling units for rent, housing  
19 that is affordable means housing for which the rent and  
20 utilities constitute no more than 30% of the gross annual  
21 household income for a household of the size that may occupy  
22 the unit.

23 "Affordable housing developer" means a nonprofit entity,  
24 limited equity cooperative or public agency, or private  
25 individual, firm, corporation, or other entity seeking to  
26 build an affordable housing development.

27 "Affordable housing development" means (i) any housing  
28 that is subsidized by the federal or State government or (ii)  
29 any housing in which at least 20% of the dwelling units are  
30 subject to covenants or restrictions that require that the  
31 dwelling units be sold or rented at prices that preserve them  
32 as affordable housing for a period of at least 15 years, in  
33 the case of for-sale housing, and at least 30 years, in the

1 case of rental housing.

2 "Approving authority" means the governing body of the  
3 county or municipality.

4 "Development" means any building, construction,  
5 renovation, or excavation or any material change in the use  
6 or appearance of any structure or in the land itself; the  
7 division of land into parcels; or any change in the intensity  
8 or use of land, such as an increase in the number of dwelling  
9 units in a structure or a change to a commercial use.

10 "Exempt local government" means any local government in  
11 which at least 10% of its total year-round housing units are  
12 affordable, as determined by the Illinois Housing Development  
13 Authority pursuant to Section 20 of this Act; or any  
14 municipality under 1,000 population.

15 "Household" means the person or persons occupying a  
16 dwelling unit.

17 "Local government" means a county or municipality.

18 "Low-income housing" means housing that is affordable,  
19 according to the federal Department of Housing and Urban  
20 Development, for either home ownership or rental, and that is  
21 occupied, reserved, or marketed for occupancy by households  
22 with a gross household income that does not exceed 50% of the  
23 median gross household income for households of the same size  
24 within the county in which the housing is located.

25 "Moderate-income housing" means housing that is  
26 affordable, according to the federal Department of Housing  
27 and Urban Development, for either home ownership or rental,  
28 and that is occupied, reserved, or marketed for occupancy by  
29 households with a gross household income that is greater than  
30 50% but does not exceed 80% of the median gross household  
31 income for households of the same size within the county in  
32 which the housing is located.

33 "Non-appealable local government requirements" means all  
34 essential requirements that protect the public health and

1 safety, including any local building, electrical, or plumbing  
2 code requirements or those requirements that are critical to  
3 the protection or preservation of the environment.

4 Section 20. Determination of exempt local governments.

5 (a) Beginning January 1, 2006, the Illinois Housing  
6 Development Authority shall determine which local governments  
7 are exempt and not exempt from the operation of this Act  
8 based on an identification of the total number of year-round  
9 housing units in the most recent decennial census for each  
10 local government within the State and by an inventory of  
11 for-sale and rental affordable housing units, as defined in  
12 this Act, for each local government from the decennial census  
13 and other relevant sources.

14 (b) The Illinois Housing Development Authority shall  
15 make this determination by:

16 (i) totaling the number of for-sale housing units  
17 in each local government that are affordable to  
18 households with a gross household income that is less  
19 than 80% of the median household income within the county  
20 or primary metropolitan statistical area;

21 (ii) totaling the number of rental units in each  
22 local government that are affordable to households with a  
23 gross household income that is less than 60% of the  
24 median household income within county or primary  
25 metropolitan statistical area;

26 (iii) adding the number of for-sale and rental  
27 units for each local government from items (i) and (ii);  
28 and

29 (iv) dividing the sum of (iii) above by the total  
30 number of year-round housing units in the local  
31 government as contained in the latest decennial census  
32 and multiplying the result by 100 to determine the  
33 percentage of affordable housing units within the

1 jurisdiction of the local government.

2 (c) Beginning January 1, 2006, the Illinois Housing  
3 Development Authority shall publish on an annual basis a list  
4 of exempt and non-exempt local governments and the data that  
5 it used to calculate its determination. The data shall be  
6 shown for each local government in the State and for the  
7 State as a whole.

8 (d) A local government or developer of affordable  
9 housing may appeal the determination of the Illinois Housing  
10 Development Authority as to whether the local government is  
11 exempt or non-exempt under this Act in connection with an  
12 appeal under Section 30 of this Act.

13 Section 25. Affordable housing plan.

14 (a) Prior to July 1, 2004, all non-exempt local  
15 governments must approve an affordable housing plan.

16 (b) For the purposes of this Act, the affordable housing  
17 plan shall consist of at least the following:

18 (i) a statement of the total number of affordable  
19 housing units that are necessary to exempt the local  
20 government from the operation of this Act as defined in  
21 Section 15 and Section 20.

22 (ii) an identification of lands within the local  
23 government that are most appropriate for the construction  
24 of affordable housing and of existing structures most  
25 appropriate for conversion to, or rehabilitation for,  
26 affordable housing, including a consideration of lands  
27 and structures of developers who have expressed a  
28 commitment to provide affordable housing and lands and  
29 structures that are publicly or semi-publicly owned;

30 (iii) incentives that local governments may provide  
31 for the purpose of attracting affordable housing to their  
32 jurisdiction; and

33 (iv) a goal of a minimum of 15% of all new

1 development or redevelopment within the local government  
2 that would be defined as affordable housing in this Act;  
3 or a minimum of a 3 percentage point increase in the  
4 overall percentage of affordable housing within its  
5 jurisdiction, as defined in Section 20 of this Act; or a  
6 minimum of a total of 10% of affordable housing within  
7 its jurisdiction.

8 (c) Within 60 days after the adoption of an affordable  
9 housing plan or revisions to its affordable housing plan, the  
10 local government must submit a copy of that plan to the  
11 Illinois Housing Development Authority.

12 Section 30. Appeal to State Housing Appeals Board.

13 (a) Beginning January 1, 2006, an affordable housing  
14 developer whose application is either denied or approved with  
15 conditions that in his or her judgment render the provision  
16 of affordable housing infeasible may, within 45 days after  
17 the decision, submit to the State Housing Appeals Board  
18 information regarding why the developer believes he or she  
19 was unfairly denied or conditions were placed upon the  
20 tentative approval of the development unless the local  
21 government that rendered the decision is exempt under Section  
22 15 or Section 20 of this Act. The Board shall maintain all  
23 information forwarded to them by developers and shall compile  
24 and make available an annual report summarizing the  
25 information thus received.

26 (b) Beginning January 1, 2009, an affordable housing  
27 developer whose application is either denied or approved with  
28 conditions that in his or her judgment render the provision  
29 of affordable housing infeasible may, within 45 days after  
30 the decision, appeal to the State Housing Appeals Board  
31 challenging that decision unless the municipality or county  
32 that rendered the decision is exempt under Section 15 of this  
33 Act. The developer must submit information regarding why the

1 developer believes he or she was unfairly denied or  
2 conditions was placed upon the tentative approval of the  
3 development.

4 (c) Beginning January 1, 2009, the Board shall render a  
5 decision on the appeal within 120 days after the appeal is  
6 filed. In its determination of an appeal, the Board shall  
7 conduct a de novo review of the matter. In rendering its  
8 decision, the Board shall consider the facts and whether the  
9 developer was treated in a manner that places an undue burden  
10 on the development due to the fact that the development  
11 contains affordable housing as defined in this Act. The Board  
12 shall further consider any action taken by the unit of local  
13 government in regards to granting waivers or variances that  
14 would have the effect of creating or prohibiting the economic  
15 viability of the development. In any proceeding before the  
16 Board, the developer bears the burden of demonstrating that  
17 he or she has been unfairly denied or conditions have been  
18 placed upon the tentative approval for the application for an  
19 affordable housing development.

20 (d) The Board shall dismiss any appeal if:

21 (i) the local government has adopted an affordable  
22 housing plan as defined in Section 25 of this Act and  
23 submitted that plan to the Illinois Housing Development  
24 Authority within the time frame required by this Act; and

25 (ii) the local government has implemented its  
26 affordable housing plan and has met its goal as  
27 established in their affordable housing plan as defined  
28 in Section 25 of this Act.

29 (e) The Board shall dismiss any appeal if the reason for  
30 denying the application or placing conditions upon the  
31 approval is a non-appealable local government requirement  
32 under Section 15 of this Act.

33 (f) The Board may affirm, reverse, or modify the  
34 conditions of, or add conditions to, a decision made by the

1 approving authority. The decision of the Board constitutes an  
2 order directed to the approving authority and is binding on  
3 the local government, which shall forthwith issue any and all  
4 necessary permits and approvals consistent with the  
5 determination of the Board.

6 (g) The appellate court has the exclusive jurisdiction  
7 to review decisions of the Board.

8 Section 40. Nonresidential development as part of an  
9 affordable housing development.

10 (a) An affordable housing developer who applies to  
11 develop property that contains nonresidential uses in a  
12 nonresidential zoning district must designate either at least  
13 50% of the area or at least 50% of the square footage of the  
14 development for residential use. Unless adjacent to a  
15 residential development, the nonresidential zoning district  
16 shall not include property zoned industrial. The applicant  
17 bears the burden of proof of demonstrating that the purposes  
18 of a nonresidential zoning district will not be impaired by  
19 the construction of housing in the zoning district and that  
20 the public health and safety of the residents of the  
21 affordable housing will not be adversely affected by  
22 nonresidential uses either in existence or permitted in that  
23 zoning district. The development should be completed  
24 simultaneously to the extent possible and shall be unified in  
25 design.

26 (b) For purposes of subsection (a), the square footage  
27 of the residential portion of the development shall be  
28 measured by the interior floor area of dwelling units,  
29 excluding that portion that is unheated. Square footage of  
30 the nonresidential portion shall be calculated according to  
31 the gross leasable area.

32 Section 50. Housing Appeals Board.

1 (a) Prior to July 1, 2006, a Housing Appeals Board shall  
2 be created consisting of 7 members appointed by the Governor  
3 as follows:

- 4 (1) a circuit judge, who shall act as chairperson;
- 5 (2) a zoning board of appeals member;
- 6 (3) a planning board member;
- 7 (4) a mayor or municipal council or board member;
- 8 (5) a county board member;
- 9 (6) an affordable housing developer; and
- 10 (7) an affordable housing advocate.

11 In addition, the Chairman of the Illinois Housing  
12 Development Authority, ex officio, shall serve as a  
13 non-voting member.

14 (b) Initial terms of 4 members designated by the  
15 Governor shall be for 2 years. Initial terms of 3 members  
16 designated by the Governor shall be for one year. Thereafter,  
17 members shall be appointed for terms of 2 years. A member  
18 shall receive no compensation for his or her services, but  
19 shall be reimbursed by the State for all reasonable expenses  
20 actually and necessarily incurred in the performance of his  
21 or her official duties. The board shall hear all petitions  
22 for review filed under this Act and shall conduct all  
23 hearings in accordance with the rules and regulations  
24 established by the chairperson. The Illinois Housing  
25 Development Authority shall provide space and clerical and  
26 other assistance that the Board may require.

27 (c) The Board may adopt such other rules and regulations  
28 as it deems necessary and appropriate to carry out its  
29 responsibilities under this Act and to provide direction to  
30 local governments and affordable housing developers."